

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1959 OF 1997

Vasant Sahakari Sakhar Karkhana Ltd.,
Kasoda, Post : Kasoda,
Tq.Erandol, Dist.Jalgaon

-- PETITIONER

VERSUS

1. The Union of India,
Through the Central Government
Standing Counsel, High Court
of Bombay, Bench at Aurangabad,

2. The Regional Provident Fund
Commissioner for Maharashtra
and Goa, Bhawishya Nidhi Bhavan,
Bandra, Bombay,

3. The Regional Provident Fund Commissioner,
S.R.O. Nashik,
Wani House New Bombay Agra Road,
Nashik-1.

-- RESPONDENTS

Mr.B.B.Yenge, Advocate for the petitioner.
Mr.Alok Sharma, Standing Counsel for respondent Nos. 2 and 3.
Respondent No.1 served.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 01/12/2016

ORAL JUDGMENT :

1. The petitioner is aggrieved by the order dated 03/03/1997 by which damages u/s 14-B have been imposed upon the petitioner for an amount of Rs.2,01,673/-.

2. This petition was admitted on 16/07/1998 and the interim relief granted on 12/06/1997 was continued.

3. I have heard the learned Advocates for the respective sides.

4. Though the petitioner had a statutory efficacious remedy u/s 7-I of approaching the Appellate P.F.Tribunal at Delhi, I am deciding this petition on its merits since it has been admitted almost 20 years ago.

5. The grievance of the petitioner is with regard to the amount of damages imposed upon it by the P.F.Authorities. Mr.Yenge has strenuously criticized the impugned order. Contention is that though it is mentioned in paragraph No.3 of the order that the petitioner was granted a personal hearing on 20/12/1996, his contentions do not find any reference in the impugned order.

6. Mr.Sharma, learned Advocate for the PF Department has strenuously supported the impugned order. He submits that an order of damages u/s 14-B is consequential to the assessment u/s 7-A. There is a particular percentage of damages prescribed under the

Act and its' scheme. Considering the delay caused and the amounts involved, the damages have to be calculated. It is purely a mathematical calculation after considering the attending factors. Merely because the submissions of the petitioner are not reproduced verbatim in the order, would not render the order unsustainable.

7. Though I find that the submissions of Mr.Sharma appear to be appropriate, the fact remains that the authority passing an order should not only consider the contentions of the litigating sides, but it should also appear in the order that the said contentions have been considered. Reasons have to be assigned for negating the said contentions.

8. Though the matter needs to be remitted to the P.F. Authorities for a reconsideration of the case u/s 14-B, I find it appropriate to direct the petitioner to deposit the amount of Rs.2,01,673/- before the said authorities as a pre-condition for a rehearing in the matter. Mr.Yenge further submits that the petitioner is a sick industry.

9. In the light of the above, this petition is partly allowed. The impugned order dated 03/03/1997 shall be kept in abeyance and the matter shall stand remitted to the P.F. Authorities at Nasik on the

following conditions :-

- [a] The petitioner shall deposit an amount of Rs.2,01,673/- with respondent No.3 / Authority on or before 13/01/2017.
- [b] The petitioner shall appear before respondent No.3 on 13/01/2017 and shall participate in the hearing of the matter u/s 14-B on the dates on which respondent No.3 would post the matter for hearing.
- [c] If the amount, as directed above, is deposited, respondent No. 3 shall commence the hearing of the matter.
- [d] If the amount, as directed is not deposited, this order shall stand recalled and the order dated 03/03/1997, which is kept in abeyance, shall be enforceable and respondent No.3 would be at liberty to initiate steps for recovery of the amount ,as is provided under the Act.
- [e] Upon deposit, after the hearing is completed, respondent No.3 shall pass a reasoned order for computing the exact amount of damages u/s 14-B. While doing so, if it finds that the amount is properly calculated, the deposited amount shall be adjusted against the assessment. If more amount is noticed to be payable u/s 14-B, respondent No.3 shall proceed to pass necessary orders and the order dated 03/03/1997 shall then stand merged in the fresh order which would be passed.
- [f] Respondent No.3, notwithstanding this order and the hearing proposed, would be at liberty to seek interest on the amount u/s 14-B and/or initiate proceedings u/s 7-Q of the E.P.F. Act for assessing the interest and its recovery.
- [g] Request for extension of time to deposit the amount as directed above, at the behest of the petitioner, shall not be entertained.

10. Rule is made partly absolute in the above terms.

(RAVINDRA V. GHUGE, J.)